



This document is scheduled to be published in the Federal Register on 05/07/2015 and available online at <http://federalregister.gov/a/2015-11032>, and on FDsys.gov

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2015-0051, Sequence No. 2]

**Federal Acquisition Regulation; Federal Acquisition Circular
2005-82; Small Entity Compliance Guide**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This Small Entity Compliance Guide has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005-82, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005-82, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005-82 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755.

Rules Listed in FAC 2005-82

<u>List</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
*I	Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities	2014-013	Loeb
II	Review and Justification of Pass-Through Contracts	2013-012	Hopkins
III	Enhancements to Past Performance Evaluation Systems	2014-010	Glover
IV	Technical Amendments		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-82 amends the FAR as specified below:

Item I—Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities (FAR Case 2014-013)

DoD, GSA, and NASA are issuing a final rule adopting the interim rule published July 25, 2014, without change.

The interim rule amended the FAR to implement final rules issued on September 24, 2013, by the Office of Federal Contract Compliance Programs at the Department of Labor (DOL) relating to equal opportunity and affirmative action for veterans and individuals with disabilities. The DOL rules provide clarification of mandatory listing of employment openings, the posting of notices, making notices accessible to persons with disabilities, and requiring nondiscrimination statements in contractor solicitations or advertisements for employees. The FAR clauses were restructured in the interim rule to provide a citation to the applicable clause in the DOL regulations and include a statement that summarizes contractors' top level obligations under each clause. There is no significant impact on small entities imposed by the FAR rule.

**Item II—Review and Justification of Pass-Through Contracts
(FAR Case 2013-012)**

This final rule amends the FAR to implement section 802 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239), which provided for additional requirements relative to the review and justification of pass-through contracts. In those instances where an offeror for a contract, task order, or delivery order informs the agency pursuant to FAR 52.215-22 of their intention to award subcontracts for more than 70 percent of the total cost of work to be performed under the contract, task order, or

delivery order, section 802 requires the contracting officer to (1) consider the availability of alternative contract vehicles and the feasibility of contracting directly with a subcontractor or subcontractors that will perform the bulk of the work; (2) make a written determination that the contracting approach selected is in the best interest of the Government; and (3) document the basis for such determination. These statutory requirements are being implemented in FAR 15.404-1(h) and for consistency purposes are applicable to all of the agencies subject to the FAR even though section 802 only applied to the Department of Defense, the Department of State, and the United States Agency for International Development.

Because the rule augments the current responsibilities of contracting officers relative to the review and justification of pass-through contracts and does not initiate or impose any new administrative or performance requirements on contractors, and specifically exempts contract actions awarded pursuant to FAR subparts 19.5, 19.8, 19.13, 19.14, or 19.15, there is no impact on small businesses.

**Item III—Enhancements to Past Performance Evaluation Systems
(FAR Case 2014-010)**

This final rule changes the language at FAR 42.1502 to accommodate the recent merger of the Architect-Engineer Contract Administration Support System (ACASS) and the Construction Contractor Appraisal Support System (CCASS) as modules within the Contractor Performance Assessment Reporting System (CPARS) database. This action will standardize the past performance reporting requirements under the CPARS database. The ACASS and CCASS modules were merged into CPARS on July 1, 2014.

This change does not place any new requirements on small entities.

Item IV—Technical Amendments

Editorial changes are made at FAR 4.905(a), 22.102-2(a), 39.101(a)(1)(ii), 52.212-4(v), 52.212-5(b)(36)(i), (b)(36)(ii), (b)(39)(ii), and (e)(1)(v), 52.213-4(a) and (b), and 52.223-16.

Dated: April 30, 2015.

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[BILLING CODE 6820-EP]

[FR Doc. 2015-11032 Filed: 5/6/2015 08:45 am; Publication
Date: 5/7/2015]